Adjournment of a Special Commission of Oyer, and Terminer.

THE

TRIAL

OF

EDWARD KEARNEY,

FOR

High Treason,

HELD BEFORE THE RIGHT HON. LORD NORBURY, THE HON. BARON GEORGE, THE HON. JUSTICE FINUCANE, AND THE HON. BARON DALY.

On the 31st. Day of August, 1803.

IN which is detailed a Circumstantial Account of the Origin and Progress of the Treasonable Conspiracy, which broke out in THOMAS-STREET, &c. on the Night of the TWENTY-THIRD of JULY, Instant.

TAKEN IN SHORT HAND BY A PROFESSIONAL GENTLEMAN.

DUBLIN:

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1803.

THE

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OF

EDWARD KEARNY,

FOR

High Treason,

AT AN ADJOURNMENT OF A SPECIAL COMMISSION HELD AT THE SESSION HOUSE, GREEN-STREET;

WEDNESDAY, AUGUST 31ſt.

THIS day the Priſoner was brought up and arraigned on the following

INDICTMENT:

County of the City of Dublin, to wit. } The Jurors for our Lord the King, upon their oath, preſent that *Edward Kearney* late of Thomas-Street, in the City of Dublin, and in the County of the City of Dublin, yeoman, otherwiſe called *Edward Carney*, a ſubject of our ſaid Lord the now King, not having the fear of God in his heart, nor weighing the duty of his allegiance, but being moved and ſeduced by the inſtigation of the Devil as a falſe traitor againſt our ſaid Lord the now King, his ſupreme, true, lawful and undoubted Lord, the cordial love and true and due obedience which every true and dutiful ſubject of our ſaid Sovereign Lord the King towards him our ſaid Lord the King ſhould bear, wholly withdrawing and contriving and intending the peace and common tranquillity of the Realm, to diſquiet, moleſt and diſturb, and the

government and constitution of this Realm to change, subvert and alter, and our said Lord the King from the royal state, title, honor, power, Imperial crown and government of this realm to depose and deprive, and our said Lord the present King to death and final destruction to bring and put. He the said *Edward Kearney*, otherwise called *Edward Carney*, on the 23rd day of *July*, in the 43d year of the reign of our said Lord the King, at *Thomas-Street*, aforesaid, in the City and County of the City of Dublin aforesaid, with force and arms, falsely, wickedly and traitorously did compass, imagine and intend our said Lord the King then and there, his supreme, true and lawful lord, of and from the royal state, crown, title, power and government of this Realm, to depose and wholly deprive, and our said Lord the King to kill and bring and put to death, and that to fulfil, perfect and bring to effect his most evil and wicked treason and treasonable imaginations and compassings aforesaid, He the said *Edward Kearney*, otherwise called *Edward Carney*, as such false traitor as aforesaid, on the said 23d day of *July*, in the said 43d year of the reign of our said Lord the King, at *Thomas-Street* aforesaid, in the City and County of the City of Dublin aforesaid, with force and arms, falsely, maliciously and traitorously did conspire, confederate and agree to and with divers other false traitors whose names are to the jurors aforesaid unknown to raise, levy and make a public and cruel insurrection, rebellion and war against our said Sovereign Lord the King within this kingdom. And that afterwards to wit, on the said 23d day of *July*, in the said 43d year of the Reign of our said Lord the King, with force and arms, at *Thomas-street* aforesaid, in the City and the County of the City of Dublin aforesaid, the said *Edward Kearney* otherwise called *Edward Carney*, as such false Traitor as aforesaid, in further prosecution of his Treason and Treasonable purposes aforesaid, did arm himself with and did bear and carry a certain weapon called a Pike, with intent to associate himself with divers other false Traitors armed with Guns, Swords and Pikes, whose Names are to the said Jurors unknown, for the purpose of raising, levying and making Insurrection, Rebellion and War against our said Lord the King, and of committing and perpetrating a cruel slaughter of and amongst the faithful Subjects of our said Lord the King, within this Kingdom And that afterwards to wit, on the said 23d day of *July*. in the said 43d year of the Reign of our said Lord the King, with force and arms, at *Thomas-street* aforesaid, in the City and County of the City of Dublin aforesaid, the said *Edward Kearney* otherwise called *Edward Carney*. as such false Traitor as aforesaid, in further prosecution of his Treason and Treasonable purposes aforesaid, with a great multitude of persons whose names are to the said Jurors unknown, to wit, to the number of one hundred Persons and upwards, armed and arrayed in a warlike manner, to wit, with Guns, Swords and Pikes, being then and there Unlawfully and Traitorously

ouſly aſſembled and gathered together againſt our ſaid Lord the King, did prepare, levy, ordain and make public War againſt our ſaid Lord the King, againſt the duty of the allegiance of him the ſaid *Edward Kearney* otherwiſe called *Edward Carney*, againſt the Peace of our ſaid Lord the King his Crown and Dignity, and contrary to the form of the Statute in ſuch Caſe made and provided. And the ſaid Jurors of our ſaid Lord the King, upon their Oath do further preſent that the ſaid *Edward Kearney* otherwiſe called *Edward Carney*, being a Subject of our ſaid Lord the now King, and not having the fear of God in his Heart, nor weighing the Duty of his allegiance, but being moved and ſeduced by the inſtigation of the Devil, and entirely withdrawing the love and true and due obedience which every Subject of our ſaid Lord the King ſhould, and of right ought to bear towards our ſaid Sovereign Lord the King, and wickedly deviſing and intending to diſturb the Peace and Public Tranquility of this Kingdom, on the 23d day of *July*, in the 43d year of the Reign of our ſaid Lord the King, with force and arms, at *Thomas-ſtreet* aforeſaid, in the City and County of the City of Dublin aforeſaid, unlawfully, malicioufly and traitorouſly did compaſs, imagine and intend to raiſe and levy War, Inſurrection and Rebellion againſt our ſaid Lord the King, within this Kingdom and, in order to fulfil and bring to effect the ſaid Traitorous Compaſſings, Imaginations and Intentions, laſt mentioned, of him the ſaid *Edward Kearney* otherwiſe called *Edward Carney*, afterwards to wit, on the ſaid 23d day of *July*, in the ſaid 43d year of the Reign of our ſaid Lord the King, with force and arms, at *Thomas-ſtreet* aforeſaid, in the City and County of the City of Dublin aforeſaid, with a great multitude of Perſons whoſe names are to the ſaid Jurors unknown, to wit, to the number of one hundred perſons and upwards, armed and arrayed in a warlike manner, to wit, with Guns, Swords and Pikes, being then and there unlawfully, malicioufly and traitorouſly aſſembled and gathered together, againſt our ſaid Lord the now King, moſt wickedly, malicioufly and traitorouſly did ordain, prepare, levy and make public War againſt our ſaid Lord the King, his ſupreme and undoubted Lord, contrary to the Duty of the allegiance of him the ſaid *Edward Kearney* otherwiſe called *Edward Carney*, againſt the Peace of our ſaid Lord the King his Crown and Dignity, and Contrary to the form of the Statute in ſuch Caſe made and provided.

The following Gentlemen were then ſworn upon the Petit Jury:

1. Richmond Allen,
2. Robert H. French,
3. Js. Walcot Fitzgerald,
4. William Magee,
5. John Halpin,
6. William Moore,
7. John Duncan,
8. Godfrey Byrne,
9. Richard Davison,
10. Thomas Kennan,
11. Wm. Stanford,
12. Thomas Kinder.

Several Gentlemen were fined on calling over the Pannell;—and the following Gentlemen were objected to.

On behalf of the Crown.

JOHN STEWART, CHARLES BINGHAM,
PETER WILKINSON, HENRY BINGHAM,
WILLIAM FORBES.

On behalf of the Prisoner, the following Gentlemen were challenged peremptorily:

CORNELIUS GAUTIER, JOHN READ,
NATHANIEL KEARNS. WILLIAM JEWSTER,
FRANCIS BEGG, WILLIAM Mc. KENZIE,
ROBERT BURNETT, JAMES NUGENT,
And WILLIAM WAINRIGHT.

Mr. TOWNSEND opened the Indictment.

Attorney General.—My Lords and Gentlemen of the Jury, the Prisoner stands before you charged with High Treason, one of the greatest crimes which in the eye of the law a man can be guilty of. And Gentlemen of the Jury, I think it incumbent upon me to observe to you, that it is your duty as jurors to discharge from your minds any thing you may have heard previous to your coming into that box, in order that the prisoner may have a fair and impartial trial, and the full benefit of those laws for the breach of which he is accused.

The Indictment is founded upon the Statute of Treason, enacted in the Reign of Edward III. and charges the prisoner with a breach of two separate provisions of that Act of Parliament:—one of them is the compassing and imagining the death of the King; the other the actual levying of war against his Majesty. There are three overt acts to the first count stated in the indictment:—the first is that he did conspire with divers other persons to carry on rebellion and insurrection whereby the King and his Government might be destroyed. The second count charged that he did arm himself with a certain instrument or weapon called a pike, with an intent to adherate himself with divers other armed persons, and raise insurrection and rebellion. The third count charges that he together, with divers other unknown persons, to the number of one hundred and upwards, armed and arrayed in a warlike manner, with guns, swords and pikes, being unlawfully and tumultuously assembled together, did make public war against his Majesty, in *Thomas-Street*, upon the 23d day of *July* last, contrary to the duty of his allegiance; contrary to His Majesty's peace, his crown and dignity, and contrary to the form of the statute in such case made and provided. The second count is founded upon the clause of the act relative to the levying of war against the King, and is supported by an overt act, that he did upon the same day, and at the same place,

place, actually levy war against his Majesty, contrary to the duty of his allegiance, and also to the statute which I have before mentioned. And I trust, Gentlemen, that if it shall appear to you that the prisoner was engaged in the commission of those acts of violence which are charged as overtacts, that you will find such a verdict as the law and justice requires. And Gentlemen of the Jury, I must observe to you, that it is not necessary, in order to establish the guilt of any individual, on a trial of this nature, to prove that he in particular was instructed in and made acquainted with the original motives of an insurrection and conspiracy, because persons who engage in an illegal act are bound to abide the consequences of it, and if this was not the case, it would be truly lamentable the greater number of those who commited offences against the laws of the land, and against the peace and good order of society would go unpunished, for it must be well known to you, Gentlemen of the Jury, that those persons who are employed as the immediate instruments for carrying into effect conspiracies of this nature are not generally of that order and description of persons who would be supposed to have originally conceived the design. In stating the particulars of this Case, I shall be obliged to take a short survey of the progress of disaffection in this Country. The Insurrection which has so lately existed, was confined to very narrow limits, and so far must appear contemptible, delusive and visionary, but Gentlemen it was calculated to give impressions to a foreign Enemy, not calculated for the general tranquility of the Country, and must convince every one of the hardened Profligacy of those who were the immediate instruments of it; but I trust Gentlemen that the effect of this diabolical Conspiracy will be so far fortunate that it will rouze the Loyalty of every honest Member of the Community, then shall the Arts and Machinations of Traitors be rendered ineffectual, as well as the desperate attempts of a foreign Enemy upon our Lives and Properties; the last time when we were called upon to enter into any enquiry relative to a business similar to the present was in 1798, and from that unhappy Rebellion in 1798 we are led to consider the mildness and clemency of our own Government contrasted with that of other Countries, and I am firmly persuaded that the good sense of the Country has led them to consider of—and reflect upon it. Such a romantic Scheme as the present one was not engaged in by the great body of the People:—No Gentlemen, it was a scheme founded by a set of Disloyal, Dishonest and unprincipled Wretches, and would not have been hatched or thought of had not some of those Persons who were concerned in the Rebellion in the year 1798 set it on foot in order to bring about their own vilanous purposes. It is well known to you Gentlemen of the Jury, that many of those who were engaged in the Rebellion of 1798 paid the just forfeit of their Lives, but it is also known to you that some of them were Transported, and others (altho' Guilty)

from

(from want of Legal Evidence to convict them) we were under the the neceſſity of permitting to remain amongſt us. I do not Gentlemen wiſh to inſinuate that all thoſe who have been concerned in the rebellion of 1798, and were permitted to aſſociate with and remain amongſt us, were active in the late conſpiracy. Far be it from me to do ſo; for I am convinced that many of thoſe perſons warned by the fate of ſome of thoſe with whom they were connected, convinced of the fallacy of their former purſuits, and reflecting upon the happineſs they might enjoy by a contrary line of conduct, would now prefer Peace and the Protection that Government would afford to their Perſons and Properties, (were they to demean themſelves as good and loyal Subjects) to Anarchy and Confuſion, and have been convinced with their loyal fellow Subjects, that no People on the Globe in any given circumſtances, have ever enjoyed ſuch perfect Freedom and Protection, both with regard to their Perſons and Property as thoſe who have the Happineſs to live under the Britiſh Conſtitution. It is a Conſtitution not only perfect in itſelf, but handed down to us by ſucceſſive Ages we may truly call it our own, becauſe we have been adapted and fitted to it from our infancy, both by Education and habit. No other People could enjoy the benefits of it as we may, becauſe give it to a new ſet of People, and it becomes to them a new Conſtitution, but to us has it been handed down by our Anceſtors untainted and in its original purity from generation to generation, it is a conſtituti on which the benefits we derive under it has endeared it to us, it is interwoven in our very natures; and I ſincerely truſt that we will make every exertion to preſerve it, that we will exert every nerve in the ſupport of it, and that we will never part with it but with our lives, and we have to lament that there are too many whoſe hardened villainy and baſeneſs have contributed to place the priſoner in his preſent unfortunate ſituation. Men who have by continually turning in their Brains, Plans and Speculations for enriching themſelves, without the aid of honeſt Induſtry, heated and inflamed their imaginations to ſuch a degree, that they did not ſcruple to commit the moſt attrocious acts of violence and perfidy, and the greateſt outrages upon the peace of the community, under the pretence that they were doing it for the public good. Men, who endeavouring to emerge from that poverty and indigence, which their own baſe vile & attrocious conduct has brought them to; too indolent to work, confirmed in habits of wickedneſs and infamy, have become Rebels by trade, and under various names and deſigns, travel about hawking Rebellion and Emancipation, and endeavouring to corrupt and ſeduce the Subjects of the King, from their duty and Allegiance, into ſituations which ſurely are, or are to be the ſituations of thoſe who have the misfortune to be ſeduced: Men, whoſe Staple Commodity is Treaſon; who derive their ſupport from Iriſh Rebellion; the unhappy Men who are ſeduced, either end their days

days by the bayonet or the rope, while thoſe who ſeduced them live to plan new rebellions, and obtain rewards for their induſtry and diligence. To the traitors who have been tranſported, and to thoſe who have been permitted to remain amongſt us are we indebted for this conſpiracy and rebellion. Thoſe then who were tranſported under feigned names imported themſelves into this country, and have exerted the utmoſt ſtrength of their ingenuity and diligence to raiſe an inſurrection in it.

It will appear to you, Gentlemen of the Jury, that this inſurrection was in conſequence of a premeditated conſpiracy, not the ſudden impulſe and violence of a mob. It does not appear to have been carried on by perſons unknown to each other. That it was the very contrary will appear to you to be the caſe. It will appear to you that a proviſional government was eſtabliſhed ;—that this proviſional government ſupplied them with arms; that there was a regular depot of arms in Marſhalſea-lane, or Maſs-lane, as it has been called ; for ſome confuſion, Gentlemen, may appear to you as to the name of the lane or ſtreet where this depot of arms was diſcovered. And ſeveral people having been aſſembled in *Thomas-Street*, they as if with one mind and with one ſentiment, went down to this Marſhalſea-lane, and were ſupplied with pikes. They returned to *Thomas-Street*, headed by a leader in regimentals, animateing them to march and take the Caſtle of Dublin ! ! ! Gentlemen, you are to be informed, that expreſſions uſed by a mob are evidence as to the general intention, and relate to all thoſe who are concerned with them ; and thoſe expreſſions were uſed, that they would take the Caſtle of Dublin, and that in a quarter of an hour after they would have the whole country ! Their leaders however were not able to advance them much nearer to the Caſtle of Dublin than Thomas-Street market-houſe, the leaders having deſpaired of bringing them further, they turned their thoughts to private acts of ſlaughter and violence, which perhaps was more congenial to the feelings of the generality of them than an attack upon the King's troops and upon the Caſtle of Dublin. They maſſacred Mr. Parker, Mr. Edmondſton and others without mercy. Colonel Brown, a gentleman generally eſteemed for his many virtues and good character, fell by a blunderbuſs. Cornet Cole was ſtopped in a carriage, dragged out and piked, until as they thought he was actually dead, and they then left him. Soon after two ſoldiers were alſo maſſacred ; and the idea that men in regimentals, which might be ſuppoſed to be the caſe, were the only objects of their violence and malignity fails, when we conſider their conduct with reſpect to Lord Kilwarden and his nephew. Proclamations were found declarative of their general intentions, and I will take the liberty of mentioning a few of the proviſions in that declaration, in order to convince you how much the promiſe of the proviſional Government is to be depended upon—ſay they

" We

" We will put no man to death in cold blood. Prisoners who " may fall into our hands, shall be treated with the respect due to the unfortunate."

How did they conform to the resolution of the Provisional Government,—they drag'd Lord Kilwarden from his Carriage, with the most brutal rage and called out for his immediate Execution; and call to mind Gentlemen, that at this time they had met with no Resistance, they had not met with any thing which could excite their rage or stimulate them to acts of Violence and Barbarity like those to which they were actuated, they came out Monsters not Men, Gentlemen you all knew Lord Kilwarden to have been a most Religious Man, a Lover of his Country, you all knew that as a Judge he administered the Law with Learning, Wisdom and Impartiality, he was a Man amiable both in his Public Character and Private Life, he called upon them for an extension of that Mercy which I dare say he had often extended to them. Yet was he Piked in no less than thirty different parts of his Body, they even not content with that, disfigured his Body with unnecessary Wounds, as if they wished to write their own Characters in his Blood, but notwithstanding all this he did not immediately expire, but was preserved as it were by Providence that his Actions at his Death, that his Dying words might correspond with the Tenor of his Life. He died as he lived, he was removed from the place where he was Piked to a Watch House, a Magistrate came in and struck with the enormity of the Crime, proposed that the perpetrators of it should suffer immediate Execution,—No said he, *let no Man suffer but by the Laws of his Country*; with his dying breath, he bequeathed to them the benefit of those Laws which they had transgressed, and left them open to the extension of that Mercy which they had denyed to him.

I do not wish Gentlemen at this time to take up the attention of the Court from the present Subject which it is employed upon, by commencing a panegyrist of his Lordship, or by passing eulogiums upon him. But it is impossible, my Lords and Gentlemen to proceed in the investigation of this business without recording his Lordship's virtues which are so interwoven and connected with it. And I could wish that his dying words might be engraved upon his tomb, that it might be an Epitaph which should endure for ever. His Lordship's nephew escaped from the carriage, but they instantly pursued him, and he fell covered with innumerable wounds.

They did not as they had previously declared they intended to do, to attack the Magazine at the Park, the Barracks and the Castle of Dublin. No, they exercised themselves in the commission of private acts of barbarity. The attacked the Four Court Marshalsea in order to liberate the prisoners, and shot the corporal of the guard. But the good sense of the prisoners who were confined there, induced them to prefer security and submission to the laws of their country.

country. Laws by which they had ſuffered impriſonment, to the falacious liberty of a mob of rebels and traitors to their King and Country. And I mention it to the honor of thoſe perſons who were confined in the Marſhalſea, that they called out for arms to defend themſelves and their priſon from the mob. The rebels in their retreat from the Marſhalſea, met Mr. Wilſon, a peace-officer, he called upon them to diſperſe, and although they had twentymen to one, more than he had, yet with the greateſt intrepidity he fired upon them. One of thoſe men charged a pike againſt Mr. Wilſon, and wounded him in the belly, (fortunately the wound was not a mortal one, nor even dangerous) and he had the preſence of mind to diſcharge a piſtol at the ruffian and ſhot him dead upon the ſpot. Lieutenant Brady of the 21ſt Regiment fired upon them, which diſperſed them for that time, two of them having been killed. A party of the Coomb guard alſo fired upon them, and killed ſome of them, and the reſt fled in different directions, and for that night they did not again appear in any conſiderable numbers. They attacked the watch-houſe in Vicar-Street, which had been deſerted by the watchmen who accompanied Mr. Wilſon, but not being able to ſucceed in their attempt, they proceeded with great gallantry to attack the empty guard-houſe upon the Coomb; but the guards who had left the Coomb, returning from *Thomas-Street*, to their very great conſternation and ſurprize put them totally to the rout, and no more was ſeen of this heroic and gallant party; but Gentlemen there ſtill remained one faſtneſs; this was, as it will be proved to be, a depot of arms, and accordingly Captain Woodward of the Barrack Diviſion, and Lieut. Coltman, of the 9th regt. having attacked it, they found ſuch a quantity of arms and ammunition, with warlike engines, in ſuch prodigious quantities, as will not leave the ſmalleſt doubt on your minds but that they were for the purpoſe of open war, treaſon and rebellion, and not for private uſe or protection. There were 36,400 ball cartridges, a variety of ſcaling ladders, grappling irons, military uniform cloathing, and not leſs than 600 proclamations of the proviſional government. As it was ſtated with reſpect to pikes (the mob having been already very liberally ſupplied with as much as they wanted) their remained only the trivial number of from 12 to 15 thouſand. This will demonſtrate to you, Gentlemen, the extent of the treaſon which they had planned, but were not able to accompliſh; for they never made a pike but with the fond hope that they ſhould procure a hand to wield it; and in all the rebels amounted to a number, perhaps leſs than 500, and no more; and thoſe men were not the effective force of the rebels who reſided within the Metropolis; but even the total force they were able with all their exertions to procure from different counties, and the event muſt convince them, and convince you all, how fruitleſs and viſionary an attempt of this nature muſt eventually prove. The ſtate in their proclamation that their object is

to break the connexion of this kingdom with Great Britain, and eſtabliſh a Republican form of Government; and that 19 counties were ready to come forward in order to carry it into effect. Yet five weeks have elapſed, and yet not one County has come forward to ſecond the inſurrection. And Gentlemen, you muſt feel in your own minds that the people are beginning to reaſon with themſelves upon the fallacy of ſuch treaſon and conſpiracy.

It is a pleaſure to find my Lords and Gentlemen of the Jury that the Inſtigators of this Rebellion have been deceived in their calculations, and that Iriſhmen are beginning to aſk themſelves "what advantages would accrue to them by the conteſt" is it to be ſuppoſed that the French would wiſh to hazard their lives and fortunes for a people whom they never ſaw, and with whoſe language and manners they are unacquainted. Is it to be ſuppoſed that perſons who are themſelves oppreſſed, and ſlaves to Deſpotic Tyranny can impart freedom to others; the abſurdity of ſuch an idea muſt ſurely ſtrike every man of common ſenſe, Proteſtants of all deſcriptions muſt feel the ſtrongeſt indignation at any attempt to be made by the French to approach this Country; and every enlightened Roman Catholic muſt ſhrink from their embrace, they would only approach us in order to plunder us and trample upon our Religion and Laws, let us look to the ſtate of Religion in France, and in other countries, and ſee then what advantages you could derive from the alliance of the French; is it to be ſuppoſed that a people would honor Religion in this country who have maſacred and put down the Miniſters of it in their own. The ſupreme head of it the Pope has been ſhaken upon his Throne; the Pope ſtill holds the nominal Government of the Church, but all its operations are directed with abſolute authority by his Corſican Coadjutor, to whom the Pope is but a a mere inſtrument; and is this the man that would be likely to ſupport the cauſe of Religion and Freedom?.

The Proclamation of the Proviſional Government, does not ſtate who is to be the Firſt Conſul, but it implies an intention of borrowing the Firſt Conſul from France, and ſo long as you have Religion and Freedom to be trampled upon, and treaſures and property to be plundered of, ſo long will the Firſt Conſul be ready to embrace all opportunities of coming into this Country. He has rob'd Switzerland, and has rendered Holland a ſcene of deveſtation and plunder, is that the man who is to be relied upon as the aſſertor and champion of your Liberty and the protector of your Religion, lives and properties? He who has plundered and deſtroyed every country into which he could get footing, or with which he had any connexion; this ought to teach the people of this country not to court his alliance and give him an opportunity of adding to the catalogue of his crimes, to ſwell his guilty triumphs by the conqueſt of this country, and the deſtruction and plunder of the lives and properties of the inhabitants, and I truſt that the inhabitants of this country will

will never be under the neceſſity of ſeeking for ſhelter from the government of France, under whoſe branches there is no vegetation.

I ſhall now advert to the dignified moderation of the government of this country, every man under its protection enjoys the benefit of the Law, as well in the preſervation of his own property as upon his trial for a breach of that Law by which he is protected. The law of the land gives to every man a fair, impartial and compaſſionate trial; is he accuſed of any breach of it, the perſon ſhall I truſt have the full benefit of that law, but at the ſame time that compaſſion which the law ſhews to thoſe who may come under its diſpleaſure, is not to be confined to the narrow circle of the dock, but it is to be extended to the public at large. The law might have taken another courſe, which would be juſtified by the neceſſity of the times, he might have been tried by another Tribunal where he would not have the ſame advantages which he at preſent enjoys.

How differently did this proviſional government mean to act with thoſe honeſt and loyal men, who were endeavouring to protect the laws and liberties of their country, who had armed themſelves for the protection of their lives and properties, and for the protection of their families. Say they in their proclamation, ſuch Iriſhmen as ſhall ſerve in the regular forces, ſhall be treated as priſoners of war; but all thoſe who are embodied in the militia, yeomanry corps, or other bodies or aſſociations, ſhall if found in arms fourteen days after the date of the proclamation be conſidered as Rebels, and committed for trial. And that the execution of one of their party ſhould be the ſignal for a general riſing. Does not this mark the atrocity and ſavage barbarity of their intentions. But as long as thoſe loyal Yeomen, and other loyal citizens and fellow ſubjects keep united together, to ſupport the peace and good order of Society, without which the government of the country cannot exiſt, ſo long may we laugh at their plots, their treaſons and their diabolical machinations. But government, wiſhing to act with mildneſs, moderation and humanity, thought fit to proceed as if no ſuch threat had been held out, and to try them by the ordinary courſe of law by which they would derive all the advantages which the Common and Statute law of the land allows to perſons who ſtand charged with crimes of a ſimilar nature to the preſent. You are firſt, Gentlemen, to conſider whether a rebellion actually exiſted on the 23d of *July* laſt; and having eſtabliſhed that point, which will not I believe, be contended againſt, nothing more remains for you to do, but to conſider upon the evidence which ſhall be offered to you. Whether the priſoner aſſiſted in carrying it on, it will appear in evidence to you, Gentlemen of the Jury, that a party of the Rebels, having fled at the approach of the army, the priſoner called them to come on, and charge them; and having taken

taken an active part as their leader, encouraged them to fight againſt the King's troops. If this ſhall be proved to your ſatisfaction, Gentlemen of the Jury, and that on his being apprehended he threw away a pike, I am certain you will give a proper and juſt verdict, which I ſhall not preſume to anticipate. I ſhall now conclude, and ſhall only obſerve that it muſt be a great ſatisfaction to us, when we conſider that although other countries have fallen victims to rapacity and plunder, we have been enabled to preſerve (by the ſpirit of loyalty which has heretofore prevailed amongſt us, notwithſtanding the arts of a foreign enemy, and the exertions of a few deſpicable traitors at home) our country, religion and laws. And may we poſeſs that ſpirit, until that country which has been a ſcouage to the tranquillity of others, ſhall be called upon to anſwer for their own crimes.

Patrick Mc. Cabe, examined by the Solicitor General.

Q. Where were you immediately previous to the 23d Day of *July* laſt?

A. In Francis-Street.

Q. What occupation do you follow?

A. I follow the calender buſineſs.

Q. Were you in *Thomas-Street* on the night of the 23 *July* laſt?

A. I was.

Q. Were a number of people aſſembled there?

A. There were, Sir.

Q. Did you hear at any time before the 23d that there would be an aſſembly, or riſing of the people?

A. I did.

Q. Upon what day?

A. Upon the *Friday* before.

Q. I don't want you to name any particular perſon, but I wiſh to aſk you, if you heard at the time that you were informed there was to be a riſing, what the object of it was?

A. Not immediately.

Q. How ſoon after?

A. The next morning, that was *Saturday*.

Q. Where was it that you were informed of this?

A. Near the canal, in a field.

Q. Pray, when you were informed of this, were you alſo informed of what you were to do?

A. Partly.

Q. What was the information that you received?

Mr. Ball. The witneſs ought not to give evidence of general declarations in a meeting where the priſoner was not preſent.

Lord Norbury. There is no room for any objection at preſent, it is only preleminary matter, and the priſoner has not as yet been in the ſmalleſt degree implicated.

Solicitor

Solicitor General. What was the ſubject of the inſtructions you received?

A. To aſſemble in that place.

Q. When?

A. On that night.

Q. About what hour?

A. Between nine and ten o'clock.

Q. What were you to do?

A. To go to the Barracks at Iſland Bridge.

Q. Do you mean the Artillery Barracks?

A. I do.

Q. For what purpoſe?

A. Of courſe to ſeize what was in it.

Q. What did you expect to find in it?

A. Arms and ammunition.

Q. Were there any particular kind of arms there?

A. No more than cannon and muſkets.

Q. Was there any other place that you were to attack?

A. Yes, the Magazine in the Park.

Q. What did you expect to get there?

A. Gun powder.

Q. Were there any other places to be attacked?

A. There were ſeveral other places which it was mentioned would be attacked.

Q. Mention what places they were?

A. The chief place was to be the caſtle.

Q. Was any mention made of which ſide it was to be attacked on?

A. As near as I can recollect, it was ſhip-ſtreet ſide that was to be attacked.

Q. what reaſon was given for preferring an attack upon ſhip-ſtreet ſide?

A. No reaſon that I can recollect, at that time.

Q. Where did you go from the field?

A. I did not go there that night.

Q. Where was this converſation?

A. It ended there at the Canal.

Q. Was any place appointed for you to appear in upon the evening of that day?

A. Yes, in Rainsford-ſtreet.

Q. Where abouts is that?

A. Near Thomas-ſtreet.

Q. Had you received any Arms before you went there?

A. I had a Blunderbuſs.

Q. About what time did you receive it?

A. About ſix o'clock.

Q. And you appointed to meet a party in Rainsford-ſtreet, about nine?

A. I was.

A. I was.

Q. You went?

A. I did.

Q. How long did you remain?

A. About three quarters of an hour.

Q. While you remained there did any number of people aſſemble?

A. Yes, ſome came by from different parts.

Q. Which way?

A. Towards *Thomas-Street.*

Q. Did you go on with the people to *Thomas-Street?*

A. I did.

Q. When you went there, what did the party do?

A. Some of them cried out that they wanted to know where the arms were.

Q. Was any anſwer given?

A. Yes, a man who ſtood at ſome diſtance ſaid, that he would give them arms if they would go with him.

Q. Did you call out?

A. I did.

Q. What for?

A. I ſaid that I had no ammunition for my blunderbuſs.

Q. Was there any anſwer?

A. Yes. A man ſaid that he had ſome in his pocket, and that he would give it to me.

Q. What was it?

A. Ball cartridge.

Q. Do you recollect how many?

A. I believe about forty.

Q. Did the mob go with the man who ſaid he would give them arms?

A. They did.

Q. Where did they go?

A. Down Marſhalſea-alley, and turned to the right down a lane. It was the firſt turn in the alley to the right.

Q. Where did it lead to?

A. Into Dirty-lane.

Q. Did you accompany them?

A. I did.

Q. What did you obſerve?

A. We came to where there were a number of pikes which lay acroſs the lane, as if they had been thrown out of a ware-houſe.

Q. Did you obſerve any window or door more?

A. There was a door, and it was ſo high that the Pikes might have been thrown under it.

Q. Did you obſerve any thrown out of any door?

A. No, I did not.

Q. Where did you proceed then?

A. Came

A. Came out of Dirty Lane into *Thomas-ſtreet*.

Q. Did you accompany them into *Thomas-ſtreet*?

A. I did,

Q. When you got there what did you firſt obſerve?

A. The ſtopping of a Carriage, it appeared to be a road coach.

Q. What did they do to the coach?

A. They took out a box and a trunk, and then a tall ſlender Man came out.

Q. When you obſerved that did you ſay any thing?

A. Yes, I ſaid it was not for plunder that we were looking, but that we were looking for liberty.

Q. After this where did the mob go?

A. They went down Vicar-ſtreet, and ſtopped there.

Q. What did they ſtop there for?

A. To get the Watch-mens poles.

Q. Did they ſucceed?

A. I believe they did from what I ſaw next morning, but I did not ſee any then.

Q. Where did they go?

A. Then they croſſed down through Francis-Street, Plunket-Street and Patrick-Street.

Q. Did they return?

A. After they went down to Kevin-Street they returned.

Q. Where?

A. To the lower end of Francis-Street.

Q. What happened there?

A. By the noiſe that they made, the Coombe guard turned out and fired.

Q. What did your party do?

A. The beſt part of them ran away with themſelves,

Q. Do you know did any remain there?

A. I did not ſee any.

Q. What did you do when the reſt fled?

A. I went up Francis-Street as faſt as I could, I went then immediately to Pimlico, and remained there till late at night.

Q. Did you join them any more?

A. No, I did not.

Q. Where did you go from that?

A. When I ſaw that there was but little noiſe in the ſtreet, I returned home.

Q. At what time?

A. About one o'clock.

Q. Did you get to Francis-Street?

A. I ſtood ſome time to get in, and Mr. Drury coming down the ſtreet with a guard took me up at the door of the houſe where I live.

Q. Did he get the arms that you had?

A. Yes.

Q. Your Blunderbuſs?

A. Yes, and ammunition.

Croſs-examined by Mr. BALL.

Q. Pray, Sir, how long have you been concerned in politics?

A. I cannot ſay.

Q. Was you concerned in the year 1798?

A. I was concerned but not—out.

Q. But you had a general correſpondence with perſons who were in the rebellion of 1798?

A. I often had converſation with them.

Q. And I preſume you have had converſation with ſuch perſons concerning the revival of that buſineſs?

A. It might have been ſo.

Q. You have a pretty general knowledge of the leaders of that rebellion?

A. I have heard of them.

Q. You know, I ſuppoſe, the ſubordinate leaders of that rebellion?

A. Only to hear of them.

Q. Had you ever any converſation with any of them?

A. I might have been along with ſome of them, and ſpoken to them.

Q. When did you firſt hear of the new riſing?

A. On the *Friday* before the 23d.

Q. You ſwear that until that time you never heard any thing of it?

A. I heard ſome reports to and fro.

Q. Then you did hear of it?

A. I heard nothing particular until that day.

Q. Was this buſineſs generally known to the common working people?

A. I believe it was not.

Q. I believe, Sir, that a man who knew of this conſpiracy would not be very likely to follow his ordinary occupations upon the 23d of *July?*

A. I believe that man might not.

Q. If you ſaw a man who was engaged in his uſual occupations upon that day, would you think that he did not know of the plot?

A. I might think ſo.

Q. Is it not the common practice to pay common working people upon a Saturday evening?

A. It is.

Q. Now don't you think that Saturday evening was fixed upon becauſe the generality of the working people were about the ſtreet bringing home their work, or going to receive their weeks wages?

A. It

A. It might be the caſe.

Q. Do you believe that the object of thoſe conſpirators was private plunder?

A. I do not know.

Q. You ſay you had an opportunity of ſeeing when they ſtopped the coach?

A. I ſay ſo.

Q. You ſaid a great number of thoſe perſons were armed with pikes?

A. Yes.

Q. It happened that great numbers had not pikes?

A. Yes.

Q. And will you take upon you to ſwear that every perſon who had not a pike was provided with one?

A. Every man who had a mind got one.

Q. And will you take upon you to ſwear that every man who was of that party did choſe to be provided with a pike?

A. I cannot ſay as to that.

Q. Do you not believe that upon that night many were through terror obliged to take a pike?

A. It might be the caſe.

Q. Did you not hear of a remarkable caſe where ſuch a circumſtance occurred?

A. I do not recollect any thing remarkable as to that.

Q. Did you not hear that a gentleman was forced to take a pike and head a mob?

A. I never heard of any gentleman's name being mentioned upon ſuch an occaſion.

Q. How ſoon after you were taken did you conſent to become a witneſs?

A. In ſeven or eight days.

Q. During that time were you ever under any apprehenſion as to your own life?

A. I certainly was.

Q. Have you any now?

A. I cannot ſay.

Q. Now don't you believe that your life can only be ſaved by convicting others?

A. I can't ſay.

Q. Did you never conſult counſel upon the occaſion?

A. I never did.

Q. What is your belief?

A. I can't ſay what they will do with me.

Q. Pikes were thrown out of windows in other places beſides Dirty-lane?

A. I did not hear that.

Q. Did you never hear that women threw pikes out of the windows, crying out—here boys are pikes, fight for your liberty?

A. I did not hear of it.

Q. Where do you live at present?

A. In Francis-Street.

Q. Were you there laſt night?

A. No, I am not at liberty.

EDWARD WILSON *examined by* MR. PLUNKET.

Q. Are you in any office?

A. I am Sir, chief Peace Officer of the Work Houſe Diviſion, and a Magiſtrate of the County of Dublin.

Q. Do you recollect being in *Thomas-Street* on the night of the 23rd July laſt?

A. I do Sir.

Q. About what time?

A. About 9 o'Clock at night.

Q. What was your motive for going there?

A. I received information from the Superintending Magiſtrate, that riots were apprehended, and he requeſted that I would be on the alert to prevent them. I ſent orders to the Peace Officers to meet me at the Watch-Houſe in Vicar-Street.

Q. How many did you collect?

A. Eight.

Q. Where is Vicar-Street?

A. It runs into *Thomas-Street*, very near the Market-Houſe.

Q. Were the Peace Officers armed?

A. Five of them had piſtols.

Q. Where did you go?

A. I proceeded to *Thomas-Street*, and a perſon of the name of *Richard Coley* followed me with two watchmen.

Q. What appearance did you ſee?

A. When I came to *Thomas-Street*, an unuſual number of perſons aſſembling about Dirty-Lane.

Q. What deſcription of people did they ſeem to be of?

A. The common order of working people with frize coats.

Q. Pray Sir, did you do any thing?

A. I paſſed through them, and ſaw them as if conſulting one another in groupes of three and four, about ſomething important. I called out to them, that if they did not immediately diſperſe, I would take them into cuſtody.

Q. What did they do upon this?

A. They all, as if with one conſent, went into Marſhal-Alley. I was aſtoniſhed at it, as I ſaw them move off even thoſe who were at the oppoſite ſide of the way, as if all actuated by one mind.

Q. Did they appear to be armed?

A. They did not.

Q. Have

Q. Have you ever ſeen the places where arms were depoſited?

A. Yes, I have ſince.

Q. Was it the direct road to that they paſſed?

A. No, they went towards the Marſhalſea, that place is in a Lane leading to Dirty-Lane.

Q. What did you do?

A. I heard a ſhot fired, as if at the Marſhalſea, which, when I heard, I imagined that they were breaking open the Marſhalſea, in order to liberate the priſoners; this was my opinion of the matter at that time. I went round by the place where the depot was, in order to take them in the rear; when I got to Dirty-Lane, I ſaw a great crowd about a public houſe, on the left hand ſide of the way, a few yards from *Thomas-Street*; I told them to ſhut the door, a fellow made a ſtruggle to get out, but I gave him a blow, and knocked him into the tap-room. The woman of the houſe came out to ſhut the door, for ſhe knew me very well, as I had puniſhed her before; and on quitting the houſe, I ſaw the party coming through the Lane in a regular column, marching in a ſlow manner, as if waiting to get the remainder of their arms: they were 6 or 7 in front, ſo that a perſon could not get between them, and I was aſtoniſhed to ſee their numbers, which amounted to 3 or 4 hundred, ſome ſhort time had been taken up at the public houſe.

Q. Upon ſeeing the party, what did you do?

A. I ſaw them ſo cloſe, that I could not retreat; and I thought it would be the beſt way to attack them. I called out to them, that if they did not lay down their arms, I would fire upon them; one fellow made a lounge of a pike at me, it went through my coat and waiſtcoat, and into my belly. I fired at him, and he inſtantly fell with the pike, and the Peace Officers immediately afterwards fired; this threw them into a little confuſion, but they ſhortly afterwards recovered. I kept my hand on my belly, for I thought I was killed, and retreated to *Thomas-Street*. The pike men who were in front, filed off to the right and left in order to let thoſe who were in the rere fire upon our party, which they did and a watchman was unfortunately killed: when I got to the corner ſhop, kept by a man of the name of *Murphy*; I thought they were in full purſuit of me, and I had a great deſire to have another ſhot at them, but they retreated. I made the beſt of my way to New Market Watch Houſe, with the aſſiſtance of an officer, for I was quite faint with loſs of blood and a man of the name of *James Jordan* went to Cork-Street Barracks for ſome arms, which I diſtributed amongſt ſome old ſoldiers, who were among the watchmen. I then got to New-Street, and called upon *Mr. Juſtice Bell*; I thought at this time I had not long to live. *Mr. Bell* had a guard of ſoldiers, which were then planted in the ſtreet; and although I was not well able to do ſo, I remained upon duty the whole night.

Croſs

Croſs examined by MR. BETHEL.

Q. This unfortunate buſineſs was on a Saturday night?

A. Yes.

Q. I believe it is uſual for workmen on a Saturday evening, to bring home their work, and receive their wages?

A. It is ſo.

Q. Have you not heard, that when returning home on the night of the 23d, gentlemen were compelled to carry arms, and join the Rebels?

A. I heard ſuch a circumſtance of our gentlemen.

Q. Do you not believe that a ſimilar circumſtance might happen, with regard to a perſon in the priſoners claſs of life?

A. I believe it might.

LIEUTENANT FELIX BRADY *examined by Mr.* MAYNE.

Q. What regiment do you belong to?

A. The 21 Regiment of Fuſileers.

Q. What rank do you hold in that regiment?

A. Lieutenant and Adjutant.

Q. Were you upon any particular duty on the 23d of *July* laſt?

A. I was.

Q. Where?

A. In *Thomas-Street*.

Q. How many men had you under your command?

A. Forty or fifty.

Q. What was your motive of going to *Thomas-Street* on that night?

A. I was going to inform Lieutenant-Colonel Browne, that the drums had beat to arms.

Q. What time was that?

A. About half paſt nine o'clock, at night.

Q. Did he belong to the regiment?

A. He did.

Q. Where did he live?

A. On Uſhers-Iſland.

Q. What part of Thomas-Street did you firſt enter?

A. The narrow end near James's-Street. We had come over the canal bridge, and marched down through James's-Street.

Q. Had you a party at that time?

A. I had.

Q. How came you to have a party with you?

A. For fear of being killed by the mob, as I heard they were killing the ſoldiers wherever they could find them.

Q. This was about half paſt nine o'clock?

A. Yes, that I think was the hour when I firſt came into Thomas-Street.

Q. Be ſo good as to mention what happened in Thomas-Street.

A. When

A. When we came up we ſaw a man fronting James's-Street, ſtanding with a pike in his hand; after we had ſeized him, we attempted to put him in the front of a diviſion, and a bottle was thrown by ſome one from a window, and immediately a ſhot was fired from an entry which wounded one of my men, and he died on Saturday morning laſt.

Q. What next happened?

A. We heard huzzaing, and a noiſe of feet.

Q. Was it dark?

A. It was.

Q. What did you do upon this?

A. I gave orders for the men to prime and load. (Before this had only their bayonets fixed) And formed them unto ſub-diviſions, and fired a volley from the leading ſub-diviſion.

Q. Did you ſee any of thoſe perſons againſt whom you fired?

A. From the light occaſioned by the firing, I ſaw them with long white ſtaffs or poles, as I then thought. Then the men kept up firing for a few minutes and they ran in all directions, except thoſe who were dead.

Q. Did you ſee any dead?

A. I ſaw ſix dead and one dying. Saw the priſoners who had pikes, as reported by thoſe who took them, and a great number lying on the ground.

Q. Now Sir, is there any perſon in court who was taken by your party on that night? If you ſee any ſuch perſon point him out.

A. The firſt man I don't ſee. But there is one of them. *(Here the witneſs identified the Priſoner.)* He was brought to me after the party had retreated from the firing.

Q. How ſoon after?

A. Not above a minute.

Q. Then you ſay that you ſaw that man, the priſoner at the bar, in the cuſtody of your party?

A. Yes. And I brought him to General Fox.

Q. Were there any other priſoners taken?

A. Yes, ſeveral others.

Q. Where did you go next?

A. After we had collected the pikes, the wounded ſoldier was very bad, and requeſted of me to let him go to his barracks. I told him it would be dangerous, and after going down a little farther we brought him to James's-Street barrack. There was another party out under the command of Captain Hargrave. I ſaw a ſoldier of the 16th dragoons lying dead, and a trunk with "Cornet Cole" upon it, between the place where the firing was and Dirty-lane.

Croſs

Croſs-examined by MR. BALL.

Q. Did you ſay that the priſoner gave up his arms?

A. No, but that the pike, which it was reported to me that he had. was delivered up to me.

Q. Did you ſearch his pockets?

A. He was ſearched when he went to the guard houſe,

Q. Do you know what was done with the man, who ſtood ſingly with the pike?

A. He was firſt carried to the guard houſe, and was afterwards brought to General *Fox*, and then lodged in the Provoſt.

Q. Was there any doubt aroſe, whether the priſoner was that man or not?

A. Some of the ſoldiers were of opinion, that the priſoner was the man who was firſt taken; but that is nothing to ſay to my opinion of the matter.

Q. Do you believe that you were ſeen by any of thoſe men, until you came cloſe to them?

A. I believe not, becauſe I marched them up regularly and ſecretly in the middle of the ſtreet.

Q. I believe you ſaid, you had between 40 and 50 men?

A. I believe I had.

Q. Now don't you imagine thoſe men muſt make a conſiderable noiſe?

A. If they were well diſciplined, and obeyed their orders, they would not.

Q. You are the Adjutant to the regiment?

A. I am.

Q. Then I ſhall not queſtion, but that they were well diſciplined; now Sir, don't you believe that the man you ſaw when you came up, might have made his eſcape from you, before you came up to him?

A. I do not believe he might, becauſe I do not believe he ſaw us until we were within a few yards of them.

Q. The men were all in uniform, and had their arms I preſume very bright?

A. They were in uniform, and had their arms in good order.

Q. And feathers?

A. No, tufts.

Q. Well, that is only the difference of worſted inſtead of feathers; and ſo you ſay, that a party of 40 men, with uniform, with feathers in their caps, and burniſhed arms, could not be perceived by a man, until you were within a few yards of him?

A. I ſuppoſe if he had, he would have endeavoured to make his eſcape.

Q. Now do you think, that if he was an innocent man, he would have eſcaped?

A. I do not believe that he could well have eſcaped.

Q. Is

Q. Is that your opinion?

A. It is, I ſay that he might not have ſeen us.

Q. Pray Sir, who did you charge with thruſting a pike at you upon that night?

A. I charged a man with having a pike in his hand.

Q. Who is he?

A. I have ſeen him ſince I came into Court.

Q. Well I dont want you to name him, but did you charge more than one?

A. I dont recollect.

Q. Are there any of the 40 ſoldiers here?

A. I believe there are.

Q. Are they in court.?

A. I believe not.

Q. When did you ſee the man that you got with the pike in his hand, after you took him?

A. In the courſe of fifteen minutes in the guard houſe.

Q. About what o'clock?

A. About ten.

Q. Was the man you ſaw in the guard houſe, the ſame man that you ſaw with the pike in his hand?

A. The ſame man.

Q. There was a difference of opinion about that?

A. I will explain that to you. On going to general Fox's there was one of the priſoners more noiſy than the reſt, I aſked was it the raſcal that had the pike, and I was anſwered that it was not him but that it was the man here. The ſoldiers would have killed him if I had not with difficulty prevented them.

Q. You thought it a very extraordinary thing that a man ſhould attempt to eſcape, when he was in danger of being killed?

A. If he had remained quiet there would have been no fear of him.

Juror. Did he appear to be in liquor when you took him?

A. No. When we went to General Fox's he ſpoke very ſenſibly, and ſaid that he found the pike in the ſtreet, and that he had a large family.

Q. Did you ſee a pike in his hands?

A. Why this is not the man in whoſe hands I ſaw the pike. This man was brought to me by a ſoldier, and the ſoldier had a pike in his hand which he ſaid he took from him.

Court. Could the priſoner hear what the ſoldier ſaid?

A. I believe he could, becauſe he was cloſe to him,

Q. Did he make any reply?

A. He did not.

Mr. Ball objected that this was not evidence againſt the priſoner when he made no reply.

The Court ſaid that the proceedings of the Commiſſion upon ſuch a ſolemn occaſion could not be interrupted by the diſcuſſion of ſuch a queſtion.

Attorney General. You ſay that one of your men found a perſon with a pike in the ſtreet, was that the priſoner?

A. It was not the priſoner who he ſaid that he found the pike in the ſtreet with, it was the firſt man.

CORPORAL JAMES STOT *examined by* Mr. TOWNSEND.

Q. Do you know the priſoner?

A. I ſaw him in Thomas-Street on the 23d of *July* laſt.

Q. Had he any thing in his hand?

A. He had a pike, and cried out, Royal Pikemen, charge them! Here they come!

Q. When was this?

A. When we were coming up. I was upon the left of the diviſion.

Q. How ſoon was he ſeized?

A. In the courſe of about a moment, or thereabouts.

Q. Who was the man that ſeized him?

A. I do not know which of the men it was, but I ſaw him, and I took the priſoner by the neck, and thruſt him into the firſt of the diviſion.

Q. How many pikemen were there?

A. A great many I judge, by the noiſe they made.

Q. What did you do with the priſoner afterwards?

A. I took him to the adjutant, Lieutenant Brady.

Court. Are you corporal in the 21ſt?

A. I am.

Croſs-examined by Mr. BETHEL.

Q. Pray in what hour was this?

A. About ten o'clock.

Q. Was it a moon light night?

A. It was not.

Q. Was it a dark night?

A. It was.

Q. You were in the ſecond diviſion?

A. I was.

Q. Then according to my knowledge of military tactics that was in the rere?

A. It muſt be in the rere.

Q. Did you ever hear the priſoner ſing?

A. I never heard him ſing or whiſtle.

Q. Did you ever hear him ſpeak?

A. Never before that night.

Q. Will you take upon you in the face of God, and in this ſuperior

ſuperior Court of Judicature, and as a Soldier, to ſwear that the voice you heard upon that night, was the voice of the priſoner?

A. Yes.

Q. Pray, Sir, dont you believe that an honeſt, induſtrious working man might be preſſed to join a buſineſs he diſliked?

A. I do believe he might:—but I dont believe he would be forced to call out—Royal Pikemen, advance and charge them!

Q. Did you ever hear that there were Rebels in Scotland?

A. I did.

Q. Did you ever hear that Perſons were ever forced to join them who diſliked it?

A. I can't ſay that I did.

Q. You are a Scotchman?

A. I am.

Court. Did you ſee the priſoner with a pike in his hand?

A. Yes. After he had ſaid, Royal Pikemen, charge them, he threw away his pike, and he was immediately ſeized, and I put him into the front of the diviſion.

Q. What became of the pike that was thrown away into the ſtreet?

A. I cannot exactly tell.

Q. Had you ſufficient light to ſee all that you have mentioned?

A. I could ſee by the flaſh after firing.

Q. Did you looſe ſight of him from the time you ſaw him throw away his pike until you ſeized him?

A. No, I did not.

Mr. Bethel. Was it by his voice that you diſtinguiſhed him to be the man that threw away his pike?

A. He was on the other ſide of the ſtreet, and he diſtinguiſhed himſelf in ſpeaking from any other perſon.

Q. Was he at all out of your ſight until you had him in cuſtody?

A. Not one moment.

Q. Was it one of your own men that ſeized him?

A. It was.

[Here the priſoner requeſted his Counſel to aſk Lieutenant Brady a queſtion which he ſuggeſted.]

LIEUTENANT BRADY, *was then called up a ſecond time.*

Mr. Bethel. Sir, I am directed by the priſoner at the Bar, to aſk you, if it was not in James's-Street, oppoſite to the Barrack, that he was taken?

A. He was taken in Thomas-Street. We took no man oppoſite to the Barrack. The priſoner was the ſecond man that was taken.

[Here the priſoner moſt vehemently proteſted that it was in James's Street, oppoſite to the Barrack, that he was taken.]

LIEUTENANT WHEELER COLTMAN, *examined by Mr. Townſend*

You are an officer, I believe, in the 9th regiment?

A. I am, Sir.

Q. Were you in town on the 23d of *July* laſt?

A. I was.

Q. Did you receive any particular information on that day?

A. Yes, that the town was to be attacked upon that night by the Rebels. I informed General Dunn, and I took a carriage and went to Finglaſs for my uncle, Captain Woodward, of the Barrack Diviſion, who was there, at Alderman Carothers's, and when we came to town ſeveral of the Barrack Diviſion came to my uncle; but not having arms, and finding that they could not be armed they returned home.

Court. What time was this?

A. About nine o'clock.

Mr. Townſend. Where were you from that 'till 11 o'clock?

A. I went to where my uncle lived, No. 4, Arran Quay.

Q. How far from Bridgefoot-Street?

A. About a piſtol ſhot,—juſt acroſs the bridge. Several of the military came to my uncle, and requeſted he would head them.—We went out; we had four ſerjeants, ſeveral privates, and ſix volunteers, perſons who volunteered to go with us.

Q. What o'clock was it when you got to Dirty-lane?

A. About 12. We ſaw as we went along, a large piece of timber laid acroſs the ſtreet, near the corner of Bonham-Street, hollow and filled with combuſtible matter. Such pieces of timber are generally uſed againſt cavalry. They are filled with combuſtibles, and being ſet fire to ſplit in every direction. There was one of the tubes of this piece of timber filled with powder, for I ſaw it ſpilled out. There was another acroſs Bonham-Street; the timber was regularly fixed with tubes, and plugged.

Court. Did you ever ſee any ſuch piece of timber before?

A. Yes in England.

Q. Are the commonly uſed in war?

A. No, I have often ſeen drawings of them, but never was at any place where they were made uſe of. We went to the Four-court Marſhalſea and ſtopped to know if they had any officer and if the guard had ammunition, but they had none, the guard conſiſted of a ſergeant and 12 men of the 30th. they ſaid that the Lane was full of Rebels, but that they did not think it prudent to attack them, we ordered the Serjeant and guard to join us, and led them into the lane.

Q. Which way does it run?

A. One end of it comes exactly to the corner of the Four-court Marſhalſea, the other runs into Dirty lane.

Q. Is there any other lane?

A. There is a ſmall paſſage where you might drive a horſe, we perceived a number of pikes which had apparently been thrown out of the ſecond ſtory of a Warehouſe that had the words malt ſtores printed on it, where the men ſaw the pikes, they gave three cheers and

and went immediately to ſearch a Carriage which was ſtanding by them and which had the appearance of having juſt arrived.

Q. What reaſon had you for ſuppoſing that the carriage had juſt arrived ?

A. The quick breathing of the horſes led me to think ſo.

Q. What ſituation were the pikes in ?

A. As if they had been thrown down, the ſpikes and poles were piled againſt the wall in ſuch numbers that it would be impoſſible for a carriage to paſs them, the ſpikes were placed downwards.

Q. What did you or your party do ?

A. Mr Irwin entered the ware-houſe, Mr. Cantrel followed, James Gallagher a private in the 9th, Regiment followed, and I followed after him.

Q. In what manner did you enter ?

A. We went up by a ladder.

Q. Which way were the horſes heads ?

A. They were driven from Dirty lane and the carriage couldnot turn. Several of the 38th, Regiment followed, and ſeveral others, the firſt thing I ſaw was a bundle of flints of remarkable good manufacture.

Q. How many ?

A. I cannot aſcertain the quantity.

Q. Had you light ?

A. Not at firſt, after that we laid hold of ſome ball cartridges.

Q. Did you take any memorandums of the tranſactions of that night ?

A. No I did not, but my memory is very ſtrong upon the ſubject.

Q. Be ſo good then as well as you can ſpeak from memory to tell what elſe you ſaw ?

A. When I ſaw the number of cartidges I exclaimed, that there was amunition for thirty thouſand men, but afterwards I ſuppoſed for about ten thouſand.

Q. What more did you ſee ?

A. A great number of hand grenades.

Q. Deſcribe them ?

A. They are like ſmall Ink bottles filled with powder and ſhot encloſed in canvas and then covered over with clay, and I ſaw alſo bottled ſhot, they were in the ſhape of Champaignebottles ; that is the only term that I know of for them. I am not ſure whether that is the right technical name for them or not.

Q. Did any thing elſe preſent itſelf to your obſervation ?

A. Yes, a great quantity of proclamations from the proviſional Government quite wet, they were of two different ſizes.

Q. Were there any of them like this ?

[Here a proclamation printed upon a large ſheet of paper was preſented to the witneſs.]

A. Yes the large ones were ſimiliar to this.

Court.

Court How many of the large proclamations were there ?

A. I cant tell how many, they were in ſeveral bundles.

Q. What did you mean by ſaying they were wet ?

A. They were as wet as if a perſon had taken a bruſh and rubbed paſte over them.

Q. Were they like papers juſt printed, have you ever been in a printers office ?

A. I have not, but they were as I have got a news paper juſt wet from the preſs.

Mr. Townsend. How many bundles of large proclamations were there.

A. About ſeven, each bundle about a couple of feet thick, I took them at firſt from the ſize to be bundles of linnen, the ſheets appeared to be doubled down.

Q. Then there muſt have been ſome thouſands ?

A. Poſſibly their might.

Q. How many bundles were there of the ſmaller proclamations ?

A. I only ſaw a few of them in Major Gordons hat, I then got a lantern and ſtood up upon a bench and went into a place where there was a partition we deſcended by a kind of ſhip ladder and found pieces of white caſſimare ſuch as uniform breeches are made of and green jackets edged with white, palliaſſes which appeared as if people had been ſleeping upon them ſhortly before, two pair of blankets, and one of my men got what appeared to me to be a rebel Generals jacket and hat, the jacket was made frock way and very full trimed with gold lace.

Q. Did you find any other implements of deſtruction ?

A. Yes, I found a great deal of looſe powder ſtrewed upon the floor.

Q. What was the ſize of the floor ?

A. I can't ſay what might be the ſize of it. It was covered with powder from the beech to the wall. When I ſtood upon it, I found that it came above my ſhoes in ſome places.

Q. Did you ſee any boxes ?

A. Yes, there was ball cartridge and powder in boxes. We found an inner partition by day-light.

Q. Deſcribe the inner partition ?

A. It was formed by rearing one wall againſt the other.

Q. Was it pulled down ?

A. It was, and we got a number of pikes behind it.

Q. What number ?

A. That I cannot tell exactly. There were ſeven thouſand at leaſt. I gave up the care of them to Major Gordon. We took the body off the carriage and loaded it, and ſeven cars. The carriage and cars, as well as I can recollect went three times to the barrack.

Q. I believe

Q. I believe there were ſome more things which you have not mentioned.

A. Yes, on a loft I found more powder and ball and hand grenades. I made our men go down, for was the lock of a muſket to ſnap, it would probably blow the whole place up. I then found a quantity of bread quite warm in the heart; ſome ſcaling ladders and baſkets which contained the bread; and I gave ſeveral loaves to the ſoldiers that they might try if it was good bread, and ſome of the ſoldiers ſtuck them upon the points of their bayonets.

Q. Could one of the baſkets contain twenty loaves?

A. Yes.

Q. How many baſkets were there?

A. About twelve in appearance. I ſaw a barrel of malt liquor and I made ſome of the ſoldiers of the 38th make holes in the barrel with their bayonets, in order to let the contents of it run about, leaſt the men ſhould drink it; and were they to do ſo I did not know what might be the conſequence.

Q. Did you ſee any iron?

A. I did not ſee any irons that were got.

Q. What did you do after this?

A. Having got information that the ware-houſe belonged to one Coleman, a brewer in Thomas-Street; we went to his houſe and took him, and gave him up to Alderman Darley, who was at another lane in Thomas-Street. We ſent for a reinforcement which arrived with Alderman Darley, Major Gordon, and ſome of the 21ſt Regiment.

I believe Sir, I have nothing more to aſk you. You may go down.

Serjeant THOMAS WRIGHT, *examined by the Attorney General.*

Q. Were you on any particular ſervice on the 23d of *July?*

A. Yes, at the Rebel ſtores in Marſhalſea-lane.

Q. Did you ſee any thing remarkable there?

A. Yes, I ſaw a large proclamation.

Q. Is that your name and hand writing on the back of this proclamation?

A. It is.

Q. Do you ſwear that was the proclamation you ſaw there?

A. I do.

Q. Were there any others?

A. That was the only one I took with me. There were many beſides.

Q. Did you find it by itſelf?

A. No. I took it off a bundle.

Q. Do you know what grappling-irons and ſcaling-ladders are?

A. Yes. The grappling-irons are to faſten the ladders to the p of a wall, in order to ſcale it.

Q. Did

Q. Did you ſee any there?
A. Yes.
You may go down, Sir.

(Paſſages from the Rebel Proclamation were then read, principally what has been before ſtated.)

RICHARD COWLEY, *examined by the Solicitor General.*

Q. I believe, Sir, you are a conſtable of the watch?
A, Yes, I am.
Q. Of what pariſh?
A. The pariſhof St. Catherines.
Q. Where is the watch houſe ſituated?
A. In Vicar ſtreet.
Q. Were you there on the 23d. of July?
A. I was.
Q. Was the watch houſe attacked?
A. It was twice.
Q. Do you recollect any perſon being brought to the watch-houſe wounded?
A. Yes Lord Kilwarden, we were at firſt afraid to let him in for fear it might be ſome ſtratagem of the rebels to get us to open the door.
Q. But at length you did?
A. Yes.
Q. What was done with him?
A. We put him on a bed with blankets which one Day a peace officer got.
Q. Had he any marks of blood?
A. He had on his head and other parts of his body.
Q. Do you recollect any perſon coming into the watch-houſe while he was there?
A. Major Swan.
Q. Mention what paſſed.
A. Major Swan ſaid that every one of them ought to be taken and hanged up.
Q. Thoſe who were the cauſe of his death?
A. Yes, and his Lordſhip ſaid "*let them get the benefit of the laws of their country, and let them be tried by it.*"—I dont remember the exact words.
Q. How ſoon did his Lordſhip die?
A. In a very ſhort time.
Lord Norbury. I dont ſee Mr. Attorney General how you can make the evidence unleſs you can connect it in ſome manner with the cauſe of his death.
Attorney General. We will prove my Lord how he came by the wounds which he received.

STEWARD

STEWART HUME DOUGLASS, *examined by Mr. Plunket.*

Q. Are you an officer of any regiment?

A. Yes, of the 21ſt.

Q. Were you upon any duty on the 23d of *July* laſt?

A. Yes, at the Coombe Barrack.

Q. Did you ſee any thing particular?

A. Yes.

Q. What was it?

A. About half paſt ten o'clock at night the mob made an attack upon my guard. They were about ten paces diſtant: one of my party was wounded in the head, and another in the hand. I fired upon them and they declined moving forward, and then I gave another volley. I gave three in all; they then diſperſed about Francis-Street.

Q. How many pikes did you ſee?

A. About thirteen pikes were left on the ground, and four men were killed.

Attorney General. This gentleman behaved with great gallantry in Thomas-Street; but was I to go into a detail of it, it would be only going over the ſame ground which we trod before. I therefore think it unneceſſary to trouble him further.

THOMAS MOOREHEAD, *examined by* Mr. MAYNE.

Q. Were you at any time in the employment of Lord Kilwarden?

A. Yes, as a poſtillion.

Q. I believe you drove his carriage on the night of the 23d *July* laſt.

A. Yes, Sir, I drove it from Newland to town.

Q. Who was in it?

A. My Lord, Mr. Richard Wolfe, and Miſs Wolfe.

Q. I believe Mr. Wolfe was his lordſhip's nephew, and a clergyman.

A. Yes.

Q. When did you get into town?

A. About half paſt nine o'clock.

Q. In what part of the town did you ſee any thing particular?

A. In Thomas-Street.

Q. At what hour?

A. About half paſt nine o'clock.

Q. Was it then dark?

A. No, not quite dark.

Q. What was the firſt you ſaw of armed men?

A. I ſaw them coming out of ſome houſes, and I thought at firſt that they were watchmen, as I ſaw them with poles.

Q. Were there many together?

A. No, but two or three together; but a great many aſſembled and ſtopt the carriage.

Q. Had they any arms?

A. Yes, they had pikes, piſtols and blunderbuſſes.

Q. Did they know who was in it?

A. When they ſtopped the carriage a party ſtood at the horſes heads, and another party opened the door, and as ſoon as they had done ſo, they cried out that they had Lord Kilwarden.

Q. Did his Lordſhip ſay any thing?

A. The mob cried out, that there was a lady in the carriage, and that they would ſpare her life. And they took her out, and deſired her to go about her buſineſs, and ſhe was ſent away.

Q. Without any perſonal injury?

A. Yes,

Q. What paſſed?

A. When they found that he was not willing to come out, they dragged him out.

Q. Were there any ſhots fired?

A. Yes. I ſaw them ſtab him, and ſtrike him in the head with their pikes. He cried out for mercy.

Q. Were there many acting that way?

A. They were fighting to ſee who could get moſt blows at him.

Q. Did you ſee him fall then.

A. I did.

Q. Did they ſay any thing to Mr. Wolfe?

A. I ſaw him run, and ſaw nothing more of him till I ſaw him dead the next morning.

Q. Did you ſee any of them purſue him?

A. I ſaw them run after him with pikes.

Mr. O'Gready. My Lords, and Gentlemen of the Jury, we cloſe here on the part of the Crown.

PRISONER's DEFENCE.

Mr. Ball. My Lords and Gentlemen of the Jury, the priſoner is indicted for High Treaſon, the higheſt crime known to our law; and although he has in me ſelected a very humble advocate, yet I feel in my own mind that his ſituation is not of ſo deſperate a nature as to require the ſuperior abilities of the Gentlemen on the other ſide to defend him. High Treaſon is of ſuch a nature that it generally draws down the peculiar reſentment of the Government of the country, and in the minds of the public a prepoſſeſſion againſt the perſon who has been charged with the commiſſion of it; and in order to guard againſt any impreſſions, which might be unfavourable to the priſoner upon this trial. The Government have thought fit to give him many advantages, which another mode of trial would take from him. However, in the preſent inſtance I feel in my own mind that he will not ſuffer from any ſuch impreſſions. However lamentable the effects of the conſpiracy which has exiſted in this country may be, yet has the Government

vernment ſhewed an example of mildneſs and mercy not to be experienced in other countries. Inſtead of bringing the priſoner to a tribunal, (where the enquiry as to his guilt or innocence would be much ſhorter, and the deliberation upon it would take up but a very ſhort ſpace of time indeed, and where he would alſo loſe many other advantages attending a trial by jury, and where they would be warranted in bringing him by the circumſtances attending a tranſaction of this nature) they have handed him over to a tribunal, where the queſtion of his guilt or innocence will meet with a more calm, unimpaſſioned and deliberate diſcuſſion than by any other mode of trial that could be adopted. They have followed the dying injunctions of that amiable and reſpected character, whoſe loſs no perſon has more real cauſe than the priſoner to regret and deplore. *Let them*, ſays he, *not fall in wrath or haſte*; let them *not be tried but by the eſtabliſhed rules of law*; *let them not ſuffer but by the concurrent voice of a jury of their fellow citizens, calmly and deliberately deciding upon their guilt or innocence.* The Attorney General has humanely, in ſtating the caſe againſt the priſoner, warned you, which it was not a part of his official duty to do, and which it was not incumbent upon him as counſel on behalf of the crown to do) to diſcharge from your minds any impreſſions made upon them, by what you may have heard previous to your coming into that box. And I am ſatisfied in my own mind, that had it occurred to him ſo to do he would have gone farther; he would have warned you not to take into your conſideration any part of the evidence with which the priſoner is not neceſſarily connected; and this I am ſure their Lordſhips will not heſitate to recommend to you.

The examination of witneſſes has taken up ſeveral hours, and eight or nine have been examined. Of four of them I have not thought it neceſſary to aſk any queſtion whatſoever:—and why—becauſe the facts which they were called upon to prove had no connexion or relation whatever with the guilt or innocence of the priſoner. The firſt witneſs did not prove any thing whatſoever againſt him; but it was thought adviſeable to aſk him a few queſtions in order to aſcertain what was the reſult of that melancholy event. The firſt witneſs, although a very ſuſpicious one, has aſcertained one fact, which is very much in favour of the priſoner, which is that the conſpiracy was not generally known among the lower order of people. He has eſtabliſhed as a fact that which will be material and beneficial to the priſoner.

Lord Norbury. He has ſaid that it might be the caſe, but he has not ſaid that it was the caſe,

Mr. Ball. He ſaid that he himſelf knew nothing of the conſpiracy, until the night previous to the breaking out of Rebellion; that he might have heard reports, that ſomething of the kind would take place on ſome future day; but it was talked of as a thing very remote, and he did not hear any particulars until that

night. In my humble opinion he has ſtated, what muſt make an impreſſion upon the minds of every perſons who heard him, that the conſpiracy was not generally known. And gentlemen of the Jury, he is ſelected by the proſecutor as a perſon who was acquainted with and knew of the conſpiracy; who was one of the Conſpirators himſelf, as he avowed to you, and who could ſo well give the neceſſary information upon the ſubject. If thoſe who were at the head, and had the management of the plot, did not think it proper to diſcover it to him, who was an avowed Conſpirator, they would be much leſs likely to open themſelves to thoſe, who were in an humbler walk of life, who were ſtrangers to conſpiracy, and unconnected with any member of it.

It muſt gentlemen, be collected from his teſtimony, that the lower claſs of people were totally unacquainted with it. The witneſs has given it as his own opinion, and it muſt be acknowledged, it is not remote from probability, that he who was acquainted with the conſpiracy, could beſt judge of the nature of it. He has ſaid that if he ſaw a man during the courſe of the day, previous to the inſurrection; engaged in his ordinary purſuits and buſineſs, he would conclude that he was totally ignorant of the conſpiracy. He being the engine by which it has been choſen, you ſhould become acquainted with the nature of the plot; you have a right to take his explanation of it, (if you are willing to receive it all) in the manner he himſelf has given it to you. You have heard that a gentleman was forced to take an active part in this Rebellion, to take a pike, march at the head of a mob, and act as their General. If a gentleman was compelled to do this, what might not a poor man in the priſoners rank of life, be compelled to ſubmit to. You are to obſerve gentlemen, that there are but two perſons who have ſaid any thing, to unplicate the priſoner in this buſineſs; and from this you are to collect ſomething in his favour; for the perſon who was ſuppoſed to be acquainted with the alledged conſpiracy, did not token upon him to ſay, that he knew him to have been concerned in it; and if there were no other circumſtances in his favour, this would incline you to think this caſe (to uſe no ſtronger expreſſion) extremely doubtful. If there ſhall exiſt a doubt upon this ſubject, the Bench will tell you that doubt is to be converted into a legal certainty, and that that doubt is to be the ſignal, (in your minds) of a verdict that he is not guilty of the crime for which he ſtands charged. The only two perſons whoſe evidence ſeemed in the ſmalleſt degree, to involve the priſoner; were the officer and the ſoldier, and if you compare their teſtimony together, you will find that they cannot be conſiſtent with each other, if there is an inconſiſtency in their teſtimony. It muſt create a doubt, and a doubt is ſufficient to enſure his acquittal. What does the officer ſay, he tells you that the night was ſo extremely

dark,

dark, that he did not perceive a pikeman with a pike in his hand, until he came plump upon him in the middle of the ſtreet. Nay, he goes farther, for he tells you it was ſo dark, that he did not believe that the pikeman could perceive a party conſiſting of 40 ſoldiers dreſſed in ſcarlet, with all their accoutrements and arms highly burniſhed, feathers in their caps, and fixed bayonets, until they were come up cloſe to him. He has told you gentlemen, that he had not, as he believed, the leaſt intimation of their approach, until that time notwithſtanding; the noiſe 40 men muſt have made in marching, and you are to obſerve gentlemen, that this man who muſt naturally be afraid of the army, being one of the Conſpirators, with a pike actually in his hand, and who muſt naturally be ſuppoſed to have been upon that account on the alert, leaſt he ſhould fall into the hands of the ſoldiery, So far from ſeeing or hearing them, had not time enough to attempt an eſcape from them; that he had not even time enough to drop the pike out of his hand. Take it for a few moments for granted, that all the officer has ſaid, is ſtrictly true. Impreſs your minds with that idea of almoſt total darkneſs, which he ſeemed to wiſh to impreſs you with; and then ſee what is the ſtory as told by the ſoldier. He tells you that he heard the priſoner at the bar, call out, *Royal Pikemen.* I will make no obſervations upon thoſe words, but that it does not ſeem to me, as if they were uttered by any diſaffected perſon. The appellation of Royal, is not one by which a Rebel party would moſt likely be extinguiſhed. He tells you alſo, that he ſaw him throw away his pike. Now gentlemen, compare this tranſaction with what has been told you by the lieutenant, and conſider the ſituation of the ſoldier, and the ſuppoſed pikeman, and judge yourſelves if it can be true.

If Adjutant Brady, with 40 men, could not be diſtinguiſhed with what powers of viſion could the ſoldier who was in the 2d diviſion of 40 men ſee the tranſactions which he pretends to have ſeen. I obſerved that after he had told you the ſtory he felt the glaring abſurdity of it himſelf, and that if the officer had ſworn the truth, his ſtory could not be true; but as he did not wiſh to acknowledge that, what he had firſt told you was falſe, he endeavoured to qualify it. He ſalves it by telling you, that he ſaw it by the flaſh of the muſketry. Now analize the picture that he has drawn of himſelf; I knew ſays he, by the flaſh of the muſketry, that the hand that threw away the pike, belonged to the ſame man whoſe voice I heard. Whether he has ſworn intentionally falſe, is not now the queſtion; it is for you to determine, whether it is conſiſtent with the ſtory told you by the officer, whether conſiſtent with the nature of things, that his account of the tranſaction can be true. Suppoſe now for a moment, that the offence for which the priſoner has been indicted, had been a common robbery or aſſault upon your perſon; where the irritation of your feelings would not be ſo great; and where loyal men would

would not be so very anxious about the conviction of the prisoner; would such evidence be received by you, would you give any credit to it, would you for a moment listen to it; and gentlemen, the Bench will tell you, that in cases of this nature, you are to apply no rules of evidence, which you would not apply in ordinary cases of a trivial nature, compared with the present. If you were to believe a strange and inconsistent story of a man, who had robbed your orchard, or assaulted your person, then indeed the prisoner would have no right to expect that you would act otherwise with respect to him. But I trust gentlemen, that you have too much good sense and humanity, than by giving credit to a tale so fraught with absurdity, to doom a fellow creature to destruction. There is another defect also gentlemen, in the testimony of this man, which is, that supposing it for a moment to be true, it is not the best evidence, that according to the nature of the case could be given. One of the soldiers brought the prisoner to this witness, with a pike, and said, here is this man's pike; now the best evidence that could be given of this transaction, would be, by the production of this soldier who brought the prisoner, but he will not venture to come forward and swear it. It has been endeavoured to remedy this defect, by setting up a kind of facit acknowledgement, that a person said, *this is his pike*, and the prisoner made no reply. But it has not been attempted to be proved, that he was at liberty to make a reply, or even that he heard the words, so that this can obtain no consideration in your minds, and even if he had heard it; what have you been told, that he was in danger of his life, that it was with the most extreme difficuly, the officer could prevent the soldiers from killing him. Would a man in his situation thank you, venture to make a reply; besides there was even a dispute amongst the soldiers, whether this was the first man, or the second man who had been apprehended.

Gentlemen of the Jury. In England there would be advantages which the prisoner cannot have in this country, (I do not mention this for any inflammatory purpose, far be it from me to do so. In England he would be furnished with a list of the witnesses who were to be examined against him. And had that been the case here, he would have known that it was the corporal, and not the man who took him that was to have been examined, (as he might naturally suppose without this notice) and would have been prepared accordingly. There is also a law in England which restricts a jury from giving credit to a single witness to the facts in cases of High Treason, and I take it that this statute need not have been enacted, for the principles of it are enacted in the heart of every man that has a heart. Is treason of a more trivial nature than that of perjury? I take that statute therefore to be only declaratory and that the same law holds good, even where such a statute has never been enacted. And if I am not mistaken, the words of the statute imply,

imply, that it is a declararory law. In the preſent inſtance there is but one witneſs to the fact, namely the ſoldier; and can you reconcile it to your own conſciences, upon his teſtimony, ſo pregnant with abſurdity, to deprive a fellow creature of his life.

Combine all theſe circumſtances together, and do not, Gentlemen of the Jury, ſuffer yourſelves to be led away by that inclination which is incident to human nature, to couple guilt with accuſation. Is there not a phraſe frequently uſed by women and children, if they hear of a man being accuſed of any crime of a heinous nature: *He ought to be hanged without Judge or Jury.* What does that imply, that the circumſtances of his guilt or innocence ought not to be enquired into. Does not this exhibit an inſtance of the frailty of human nature? How we are liable to be led away by our paſſions and prejudices. From thoſe paſſions and prejudices the jury box, nay even the bench is not free. You Gentlemen have ſenſe to know the unhappy conſequences which muſt enſue by giving way to them, and you are endued with ſtrength of mind to reſiſt any tendency you may feel within yourſelves to do ſo, which I truſt and am confident you will exert. From their Lordſhips I have nothing to apprehend, becauſe a judge muſt by his educatiou have been taught to reſtrain thoſe prejudices to which we are all liable, and are in the conſtant habit of reſiſting them. Gentlemen this has been ſtated to have been an ebullition of the old rebellion. If the priſoner was not concerned in it, or was not connected with thoſe who were concerned in it, he was not a perſon who would invite a diſcloſure, and that circumſtance muſt create a doubt in your minds. If it appears that he followed his uſual occupation with honeſty and induſtry undiſturbed by that internal commotion which a man engaged in a conſpiracy to overturn the Government of the country muſt feel. That he has during his life borne an honeſt, good character, and that he was engaged about his buſineſs the whole of that day upon which the inſurrection broke out, and returned peaceably home after the labours of the day were over, it muſt remove all ſhadow of doubt from your minds, and you will give a verdict in his favor. Without having to lament, as I have known many honeſt Jurymen do, who have ſaid, *we believed the man guilty, but we could not convict him for want of ſufficient evidence,* but that I truſt gentlemen, will not be your caſe.

It will be proved to you, that the priſoner is a dealer in ſkins; and having purchaſed ſome, was engaged the whole of that day, upon which the inſurrection broke out, in diſpoſing of them to his cuſtomers; that in the evening when his buſineſs was ended, he ſtopt to reſt himſelf in a public houſe, and then went peaceably home. It will alſo be proved to you, that ſo far from being engaged in the late Rebellion, he was a man of principles quite contrary to it; and that in every ſituation, he has acted

acted the part of an honeſt induſtrious man; and I think, under all theſe circumſtances, you can have no heſitation in acquitting him.

FRANCIS COGHLAN *examined by* MR. BETTHEL.

Q. Do you know the priſoner at the bar?
A. I do.
Q. What buſineſs does he follow?
A. A ſkin dealer.
Q. Do you recollect the 22nd of laſt July?
A. I do.
Q. Did you go in company with the priſoner to purchaſe any articles?
A. I did.
Q. What were they?
A. Pig ſkins and foal ſkins.
Q. That is his way of life, to buy and ſell thoſe articles?
A. It is.
Q. Did you ſee *Kearney* on ſaturday?
A. I did, he paid for the ſkins on that day, and took them out of the place; he ſaid he had a man for them, and we went to ſell them on ſaturday.
Q. What length of time did the buſineſs take up?
A. I met him between 9 and 10 o'Clock in the morning, and I ſtaid with him all day, until about 8 o'Clock at night.
Q. Where did you part with him?
A. I left him drinking in a public houſe.
Q. Where does he live?
A. At Bow Bridge.
Q. Whoſe houſe did you leave him at?
A. At Mr. Cannaughty's, in Wattling-Street.
Q. Is not Wattling-Street near Jame's-Street, in the way to Bow Bridge?
A. It is.
Q. What buſineſs do you follow?
A. A ſkinner.
Q. Where did you go when you left him?
A. Home to my family, with two of the ſkins which remained unſold.

Croſs examined by the ATTORNEY GENERAL.

Q. When did you hear of the diſturbance?
A. Not until I heard a noiſe.
Q. At what hour?
A. About half paſt 10 o'Clock.
Q. Who were in company with you in the public houſe?
A. Nobody, but him and I.
Q. How long were you there?
A. From about half paſt 6 o'Clock.

Q. If

Q. If you were to go from Wattling-Street to Bow Bridge, is *Thomas-Street* in the way.

A. No.

Q. Why did he not go away when you did?

A. I dont know, he would not.

PATRICK CONNVUGHTY, *examined by* Mr. BALL.

Q. Do you recollect the 23d day of *July* laſt?

A. Yes.

Q. Did you ſee the priſoner upon that day?

A. Yes.

Q. Was he in your houſe?

A. He was.

Q. Was he in the habit of frequenting it?

A. He was.

Q. About what time did he leave it?

A. About ten o'clock,—I cannot ſay particularly.

Q. How long had he been in the houſe?

A. I cannot ſay, for it was very much thronged, and I did not obſerve how long. He was intoxicated when he left it.

Q. What was his general hour of leaving the houſe?

A Sometimes at twelve o'clock,—other times at two. He was the laſt perſon I could get out of the houſe.

Q. When did you hear that he was taken up?

A. The next morning.

Croſs examined by Mr. PLUNKET.

Q. How long have you kept a public houſe?

A. About two years.

Q. Do you keep a loyal houſe?

A. I hope ſo.

Q. Do you pay attention to the loyalty of every one who comes into your houſe?

A. I do not wiſh to have diſloyal people in the houſe.

Q. Have you ever merited the attention of the magiſtrates in your neighbourhood?

A. Yes.

Q. What marks of his attention did he beſtow upon you?

A. I don't know.

Q. Were you ever fined for keeping a diſorderly houſe?

A. I was fined for ſelling ſpirits on a Sunday.

Q. You ſaid he was the laſt perſon who quit your houſe?

A. Yes.

Q. Do you recollect ſeeing Coghlan at your houſe?

A. I do not. The place was ſo thronged that I did not mind.

Q. Who was the laſt perſon that went before him?

A. I cannot tell.

Q. Can you tell any one's name who was in your houſe on that night.

A. There was one Frank Delman.

Q. What is he?

A. He uſed to go to the caſtle. I believe he had ſome work or other there.

Q. Who elſe?

A. Some ſoldiers.

Q. Was there any one elſe whoſe name you recollect?

A. Yes, there was a man of the name of Dodd.

Q. Where does he live?

A. He works with Mr. Dawſon, in Wattling-Street.

Q. Where does he live?

A. In James's-Street.

Q. What time did he leave your houſe?

A. A few minutes before the priſoner. When the laſt glaſs that was drank in my houſe was drinking, I heard a noiſe, and I ſaid, that I muſt ſhut up the houſe.

Q. Did you hear what it was?

A. Yes.

Q. Did you tell him of it?

A. No. Some one brought him a glaſs of liquor, and I put it oway. He was not willling to go out, ſo I took him and put him out, and deſired him to go home.

Juror. Had you a clock in your houſe?

A. Yes.

Q. You do not know the hour from having looked at the clock about that time?

No.

WALTER CARNEY, *examined by* Mr. BALL.

Q. Where do you live?

A. In Thomas-Street.

Q. What buſineſs do you follow?

A. A dealer in ſkins and feathers.

Q. Do you know the priſoner?

A. I do.

Q. Do you remember the 23d of *July?*

A. I do. He came and bought things from me which he retails.

Q. How long have you knpwn him?

A. About three or four years.

Q. Then you did not know him in the year 1798?

No.

Q. Where were you in that year?

A. I was an apprentice.

THOMAS FITZSIMONS, *examined by* Mr. BETHEL.

Q. Do you know the priſoner?

A. I do.

Q. Where do you live b

A. In Irwin-Street, Bow-bridge.

Q. How

Q. How long have you known him?

A. For about two years that that he lived in Counſellor Bethel's concerns;—and I ſuppoſe, Counſellor Bethel, that you can give him the ſame character.

WILLIAM SMITH *examined by* Mr. BETTHEL.

Q. Do you know the priſoner?

A. Yes, near ſix years.

Q. Did you know him in 98?

A. I can't exactly ſay. I have been in the habit of ſeeing him every day, I have been in the habit of buying ſkins, and have known him from the time he was an articled apprentice.

Q. What has been his character hitherto?

A. An honeſt induſtrious man.

Q. Have you ever heard that he was a diſloyal man?

A. Never.

Croſs examined by Mr. MAYNE.

Q. Have you heard any thing about the purpoſes for which parties have been formed in the city of Dublin?

A. I cannot tell any thing about it. I never meddle with ſuch kind of affairs.

Q. Are there no parties one againſt another formed for ſome particular purpoſes in this city?

A. I dont know any thing at all about it, I mind my own buſineſs.

Q. What countryman are you?

A. I am an Engliſhman.

Q. Have you any property in this country?

A. I wont tell you that.

Q. Then you wiſh to keep it a profound ſecret from me. I only wanted to have the pleaſure of wiſhing you joy of it.

A. You are very good, Sir.

Q. Then from what I can collect from you, Sir, you know nothing more about him than that he ſold ſkins. Your ſituations in life ſeem to be different;—he does not appear to be in as reſpectable a line of life as you are, and to be in an inferior rank of ſociety. I want therefore to know from you, whether their ſubſiſted a kind of familiar intimacy between you?

A. No, not that kind of intimacy you mean.

WILLIAM LOYD, *examined by* Mr. BETHEL.

Q. How long have you been acquainted with the priſoner at the bar?

A. Twelve or fourteen years.

Q. Did you know him in 98?

A. Yes.

Q. Was he charged with being concerned in that buſineſs?

A. No.

Q. How did you become acquainted with the priſoner?

A. He often bought leather from me, and paid for it honeſtly.

Lord Norbury. Gentlemen of the Jury, you muſt have been impreſſed with the ſolemnity of a queſtion of this nature. It is a queſtion which intereſts every man of the community; and I am ſure that you have paid that degree of attention to a queſtion of ſuch national importance that it requires, and you are not in need of any official exertion of mine to enable you to form an opinion upon the ſubject. However, Gentlemen, it has devolved upon me to ſum up the evidence to you, and this I ſhall do as ſhort as poſſible, conſiſtent with a minute detail of the evidence, ſo far as I think myſelf in duty bound to detail it to you after I have made ſome preliminary obſervations upon the indictment which I ſhall lay before you, diveſted of its technical phraſeology. The indictment, Gentlemen of the Jury, is founded upon a ſtatute ſo old as that of the 25th of Edward the 3d, and relates to two different branches of that act. There are two counts in the indictment, one for compaſſing and imagining the death of the King, the other for leying public war againſt him. To ſupport the firſt count, there are three overt acts laid in the indictment, as evidence of his compaſſing and imagining the death of the King. The firſt that he did conſpire and confederate with divers unknown perſons to make public war, inſurrection and rebellion againſt the King. The ſecond charges that he did arm himſelf with a pike, with an intent to aſſociate himſelf with divers other perſons for the like purpoſe. The third that he did with divers other armed perſons, to the number of one hundred and upwards, make public war againſt the King. The ſecond count charges the priſoner with conſpiracy, to levy war. And to ſupport this there is but one overt act, namely, that he did levy the war, contrary to the duty of his allegiance againſt his Majeſty's peace, his crown and dignity, and contrary to the Statute law of the land. I have thought it adviſeable, Gentlemen of the Jury to ſtate to you a few general principles of law upon the ſubject of High Treaſon, which I have committed to writing, and which are founded and eſtabliſhed upon adjudged caſes. The crime of High Treaſon is an offence of ſuch magnitude in the eye of the law that if a man manifeſts by any outward act, which is termed by the law an overt act, the corruption of his heart and his intent to commit high treaſon, either by depoſing the king, or levying public war and rebellion, in furtherance of his diſ deſign; the law conſiders it as if ſuch intent was actually accompliſhed.

The mere intention of diſpoſing the king or levying war againſt him, is conſidered by the law as henious, as if the crime was actually accompliſhed, but the wiſdom of the law is ſuch that it muſt be ſhewn that ſomething was done in furtherance of the deſign in order that the treaſonable intent and imagination of the party may be known, and this is found to be both reaſonable and juſt, becauſe if a man confines his imaginations and intentions within his own breaſt however flagitious and treaſonable they may be; how are they to be known

known or ascertained unless they are acted upon and something done in furtherance of them. These overt acts as they are called, are as various as the depravity which the minds of men can exhibit, these overt acts are always laid in the indictment, and it proved you are to deliberate in your minds whether they are connected with and done in furtherance and prosecution of the treasonable imaginations with which they are charged, and I think I am bound to tell you that it is not necessary to prove a direct intention of attack upon the king's life, for it never was doubted that if an insurrection is raised in order to overturn the Government, and substitute another Government in its room, in any part of his dominions that it was treason, for his life is considered as remotely endangered, and the treason is in the eye of law as fully accomplished as if a direct attack was to be made upon his life.

In this case gentlemen there is one fact established, and not the slightest attempt has been made to controvert it, namely, that a rebellion and Insurrection did break out in various acts of cruelty and outrage upon the night of the 23d. of July last the objection and motive of which was plain and of this there can be no species of doubt if you believe the evidence which has been laid before you: what degree of credit you will give to that evidence lies intirely in your own breasts, and if it shall appear to you that this rebellion did exist and the prisoner did any act in furtherance of it, he must be guilty of treason, the object of the conspiracy was to separate this part of his Majesty's domihions from that of Great-Britain, to destroy that connection which has heretofore subsisted between them, and form a republican government in this country in the place of that which has heretofore subsisted, this leads to diminish the power and authority of the king, and to endanger his life that this is treason there can be no doubt.

These gentlemen are general positions which never were sanctioned by the greatest authority.—before I state to you the evidence which has been given, I shall read to you a passage upon the subjects written by Sir Michael Foster.

[Here his lordship read it to the Jury but it is thought unnecessary to insert it, as it was only in confirmation of what his lordship had before said upon the subject, or to follow him in his detail of such part of the evidence as bore upon the case, which immediately followed, and which was given with that accuracy and precision for which his lordship has always been remarkable as it has been before stated, and would exceed the limits of the present publication.]

His Lordship continued,

Gentlemen if you believe the evidence you must be convinced of a fact which has not been at all disputed, nay which has been admitted upon all hands that a most cruel insurrection and rebellion broke

broke out on the night of the 23d. and then you are to consider whether the prisoner bore any part in the general transaction, and if so, whether the part which he acted was sufficient to implicate him in the crime of High Treason, It is not gentlemen necessary to prove that a party who was engaged in a conspiracy was made acquainted with the original intention or not, for if a man engages in an unlawful act he is bound by the consequences, and in conspiracies of this nature general declarations of the views and objects of them, may without any manner of doubt whatsoever be given in evidence against any one of the conspirators upon his trial. Upon the trial of Lord George Gordon declarations of the mob in a distant part of the Town, although not in his presence were given in evidence and very justly was it done so, if it was not done those who plot the distruction of their country and conspire to over-throw the government and interrupt the due administration of justice might escape with impunity it may be impossible to prove it but by general declarations, and then might those traitors go unpunished who endeavour to bring about the distruction of that government which for its mildness and mercy and the due administration of justice has been the admiration of all mankind, and will still continue to rise in the estimation of all the world.

And how is that beloved object of our repards regretted even by those ruffians who murdered him, after having been put to the most cruel torments, his dying request was that they should have the benefits of the mildness and mercy of those laws which they had laboured to destroy. How deeply are they indebted to him. Whatever painful sensatioas I may feel, every time this transaction occurs to me, I do not wish to impress your minds with any kind of animosity against the prisoner, by a repetition of the cruelties exercised against that mild, just, benevolent and good man. He has died the death of the Righteous, and has gone to a far better place, than that from which they have compelled him to take his departure. We have to remain and do justice, which I trust we shall with that mildness and moderation of which he has set us such a noble example. The prisoner's defence, I should observe to you, Gentlemen, has turned entirely upon character, and I recommend it to you, and trust that you will give it all due weight.

The jury retired for about twenty minutes, and returned with a verdict of Guilty.

The Attorney-General then moved that the sentence of the law should be passed upon the prisoner.

Lord Norbury exhorted him to be resigned to his fate, and appeal to Heaven, the only tribunal he had to appeal to, and hear his sentence with calmness.

His Lordship then passed upon him, with that feeling and humanity, which is the leading trait in his character, that dreadful sentence

tence which awaits thoſe who are convicted of the crime of High Treaſon.

The priſoner interrupted his Lordſhip three times in the courſe of paſſing ſentence upon him, and moſt vehemently aſſerted his innocence.

Counſel for the Crown.	*Counſel for the Priſoner.*
The ATTORNEY GENERAL,	CHARLES BALL,
SOLICITOR GENERAL,	and
W. B PLUNKETT,	J. B. BETHELL, ESQRS.
EDWARD MAYNE,	Agent.
WM. RIDGEWAY,	LEO. MC. NALLY, Gent.
And WM. TOWNSEND, Eſqrs.	
Agent.	
THOMAS KEMMIS, Gent.	

The Priſoner was executed upon the following Day in Thomas-Street, purſuant to his Sentence.

FINIS.